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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,199

03/16/2004

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SEFC-100US

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23122 7590 07/18/2008  
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EXAMINER

NGO, NGUYEN HOANG

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

07/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/801,199	<b>Applicant(s)</b> FISHTEYN ET AL.	
	<b>Examiner</b> NGUYEN NGO	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-35 and 42-44 is/are allowed.
- 6) ☒ Claim(s) 1-3, 28, 31, 32, 36-38, 39, 40, 41, 46-52 is/are rejected.
- 7) ☒ Claim(s) 4-30 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

This communication is in response to the RCE of 5/9/2008. All changes made to the Claims have been entered. Accordingly, Claims 1-52 are currently pending in the application.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 3, 28, 31, 32, 39, 40, 41, are rejected under 35 U.S.C. 102(e) as being anticipated by Bronnimann et al. (US 20040044571), hereinafter referred to as Bronnimann.

**Regarding claim 1, 28, 31, 32, 39, 40, 41,** Bronnimann discloses a method of determining quality rankings of user traffic directed from at least one traffic producer Web site (Internet Advertising Distribution Partner 20 of figure 1) to a plurality of traffic consumer (Advertisement Provider 12 of figure 1) Web sites (an Internet advertisement listing provider distributes advertisements listings through search engines listings, ranked listing within an Internet content portal, and distribution partners, page 1 [0006]) ,

comprising the steps of:

a) establishing a plurality of references for the plurality of traffic consumers (Advertisement Providers and their associated Web site, page 6 [0063]) on the at least one Web site of the traffic producer (search engines (Distribution Partner) comprises a list of advertisements generated with corresponding URL listings so that the consumer can click on the URL listing and go to the website corresponding to that URL listing, page 1 [0004]), the plurality of references each including a link to a traffic quality intermediary (Advertisement Listing Provider 16 of figure 1 and 2) and a unique identifier to identify a respective traffic consumer from other traffic consumers of the plurality of traffic consumers (advertisement providers 12 connect over a network to an Advertisement Listing Provider (using a secure https connection) to register, bids and associated advertisements (references including a link and unique id to identify a respective traffic consumer) associated with the bids, page 4 [0041] and page 6 [0063]);

b) directing, using a respective link, user traffic data received by the traffic quality intermediary through the traffic quality intermediary from the at least one traffic producer Web site to one or more of the plurality of traffic consumer Web sites (click-through, page 1 [0004]), the user traffic data being associated with the user traffic directed from the at least one traffic producer (the Advertisement Listing provider distribute the listing of advertisements from the advertisement provider, through Search Engine systems

operated by the Internet Advertisement Distribution Partners , page 4 [0041] and page 4 [0042] and seen from figure 1); and

c) determining, at the traffic quality intermediary, a quality ranking of the user traffic of each of the traffic consumers (advertisement listing provider monitor and store click through rates for an advertisement (URL link) for a given advertiser (traffic consumer) and rank them, page 5 [0047]-[0048] and figure 16) based upon the user traffic data received by the traffic quality intermediary and the unique identifier (URL as seen from figure 4 and 5) of the respective traffic consumer (Click-Through-Rate-Calculator Module inside the Advertise Listing Provider, page 2 [0014] and page 4 [0042] and figure 2).

**Regarding claim 2,** Bronnimann discloses a method of determining a quality ranking of user traffic in accordance with claim 1, wherein step (b) of directing the user traffic data through the traffic quality intermediary (Advertisement Listings Provider 16 of figure 1) from the traffic producer Web site (Internet Advertising Distribution Partner 20 of figure 1) to the one or more traffic consumer Web sites (Advertisement Provider 12 of figure 1) includes redirecting the user traffic from the traffic quality intermediary to the one or more traffic consumer Web sites (seen from figure 1).

**Regarding claim 3**, Bronnimann discloses a method of determining a quality ranking of user traffic in accordance with claim 2, comprising the further step (d) of reporting the quality ranking (page 5 [0047] and figure 16).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bronnimann et al. (US 20040044571), in view of Taraborelli et al. (US 20030208578), hereinafter referred to as Bronnimann and Taraborelli.

6. **Regarding claim 36, 37, 38**, Bronnimann discloses a method of determining a baseline for use in determining a quality ranking of user traffic associated with a plurality of users, each user being directed from a traffic producer Web site (Internet Advertising Distribution Partner 20 of figure 1) to a plurality of traffic consumer Web sites

(Advertisement Provider 12 of figure 1), and the user traffic having user traffic data associated with each user of the user traffic, the method comprising the steps of:

a) directing the user traffic through the traffic quality intermediary from the traffic producer Web site to the plurality of traffic consumer Web sites (page 4 [0041] and seen from figure 1);

b) monitoring the user traffic between the traffic producer Web site and the plurality of traffic consumer Web sites for a predetermined period of time (advertisements may be evaluated over different time periods, page 5 [0052]);

Bronnimann however fails to specifically disclose the following steps;

c) collecting the user traffic data associated with each user of the monitored user traffic;

d) storing the traffic data parameters of the collected user traffic data;

e) aggregating separately each of the stored traffic data parameters; and

f) determining the baseline for each of the aggregated traffic data parameters.

Bronnimann however discloses analyzing ranked listings in a grouping, such as a grouping based on the targeted output format (page 1 [0007]). In a similar endeavor, Taraborelli discloses a web site traffic analysis service (180 of figure 1) that gathers traffic data, processes it into useful form, and stores the visitor data in memory (collecting the user traffic data and storing the traffic data parameters, page 4 [0024]). Taraborelli further discloses that the data is used for finding the number of visitors, search engine references, keywords in finding the site, traffic referral from other sites or pages, site entry, site exit, and travel paths and the like (aggregating separately each of the stored traffic data parameters, and determining the baseline for each of the aggregated traffic data parameters, page 4 [0024]). It would have thus been obvious to incorporate the concept of determining the baseline for each of the aggregated traffic data parameters, as disclosed by Taraborelli, into the method of monitoring traffic from a Internet Distribution Partner to a advertisement provider, as disclosed by Bronnimann, in order to efficiently and correctly determine different user traffic characteristics (baseline for each traffic data parameters) to a advertisement website.

7. Claims 46-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bronnimann et al. (US 20040044571), in view of Glommen et al. (US 2004/0260807), hereinafter referred to as Bronnimann and Glommen.

**Regarding claim 46, 47,** Bronnimann fails to specifically disclose modifying the reference for the traffic consumer to allow tracking a user by a traffic quality intermediary. Bronnimann however discloses that traffic measurement systems are



used so that visits to Web sites are measured (page 1 [0006]). Glommen further discloses of a method that uses a traffic analysis cookie in which is passed back and forth between the visitor browser and the traffic analysis server to maintain a record of the visitor website path and that the collection of path data in the cookie permits data to be analyzed and be available for viewing in real-time (page 3 [0047]-[0048]). It would have thus been obvious to a person skilled in the art to incorporate the use of a traffic analysis cookie as disclosed by Glonmen into the web-site performance analysis method as disclosed by Bronnimann, in order to efficiently track user traffic though a website.

**Regarding claim 48, 49, 50, 51, 52**, the combination of Bronnimann and Glonmen, more specifically Glonmen discloses a method of determining a quality ranking of user traffic in accordance with claim 47, wherein the embedded software code is adapted to execute when the reference for the traffic consumer is loaded and before a user clicks on the reference for the traffic consumer (page 4 [0064] and page 4 [0072]).

***Allowable Subject Matter***

8. Claims 33, 34, 35, 42, 43, and 44 are allowed.

9. The following is an examiner's statement of reasons for allowance:

Claim 33, 34, 35, 42, 43, and 44 are allowable over the prior art of record since the cited references taken individually or in combination fail to particularly disclose determining a deviation for each of the plurality of traffic data parameters of the user traffic data based

on the comparison; weighting the deviation for each of the plurality of traffic data parameters with a predetermined weight assigned to each of the plurality of traffic data parameters; and combining each of the weighted deviations to arrive at the traffic quality ranking. It is noted that the closest prior art, Bronnimann et al. (US 20040044571), hereinafter referred to as Bronnimann discloses monitoring the effectiveness of advertisements (URLS) for a website (page 5 [0047]). However the stated prior art fails to disclose or render obvious to the above underline limitations as claimed.

10. Claims 4-30, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-52 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. McElfresh et al. (US 20030149938) Method And System For Optimum Placement Of Advertisement On A Webpage.

14. Skinner (US 7363254), Automated Web Ranking Bid Management Account System.
15. Nickerson et al. (US 20040019688), Providing Substantially Real-Time Access To Collected Information Concerning User Interaction With A Web Page of A Website.
16. Cheung et al. (US 20030028529), Search Engine Account Monitoring.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NGUYEN NGO whose telephone number is (571)272-8398. The examiner can normally be reached on Monday-Friday 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571)272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 2616

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Supervisory Patent Examiner, Art Unit 2616